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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 G&G Closed Circuit Events LLC,

10 Plaintiff,

11 v.

12 Israel Higuera Villegas, et al.,

13 Defendants.
14

No. CV-22-01892-PHX-ROS

ORDER

15 Defendants Israel Villegas and Veronica Valenzuela are the sole members of an
16 LLC. That LLC allegedly owns and operates a taco shop. Plaintiff G&G Closed Circuit
17 Events LLC had the “exclusive commercial exhibition licensing rights” to a boxing match
18 on November 6, 2021. Defendants allegedly displayed that boxing match on six televisions
19 at the taco shop without paying the appropriate fee to Plaintiff. Plaintiff’s complaint alleges
20 claims under the Communications Act, 47 U.S.C. § 605, and the Cable & Television
21 Consumer Protection and Competition Act of 1992, 47 U.S.C. § 553. Plaintiff served
22 Defendants but Defendants did not respond. Defendants’ default was entered, and Plaintiff
23 now seeks default judgment on its claim under 47 U.S.C. § 605. (Doc. 16-1 at 4). The
24 complaint does not establish Defendants’ liability under that statute. Therefore, the motion
25 for default judgment will be denied.

26 In general, § 553 addresses intercepting communications that are being transmitted
27 “over a cable system” while § 605 addresses intercepting communications that are being
28 transmitted by way of radio communications, such as satellite televisions signals. *G & G*

1 *Closed Cir. Events, LLC v. Liu*, 45 F.4th 1113, 1115 (9th Cir. 2022). In other words, if
 2 Defendants received the television signal of the boxing match through a cable tv system, §
 3 553 might apply. If Defendants received the signal through a satellite television service, §
 4 605 might apply. *See, e.g., J&J Sports Prods., Inc. v. Mandell Fam. Ventures, L.L.C.*, 751
 5 F.3d 346, 352 (5th Cir. 2014) (holding “§ 605 does not apply to [the] receipt of cable
 6 communications”). Plaintiff’s motion for default judgment seeks judgment solely on its
 7 § 605 claim. Thus, Plaintiff needed to allege Defendants received the signal through a
 8 satellite service. Plaintiff did not do so.

9 According to the complaint, Defendants or their employees “intentionally
 10 intercepted, received, and published” the signal of the boxing match at the taco shop. (Doc.
 11 1 at 5). The broadcast of the boxing match allegedly “originated via satellite uplink and
 12 was subsequently re-transmitted to cable systems and satellite companies via satellite
 13 signal to Plaintiff’s lawful sub-licensees.” (Doc. 1 at 7). These allegations do not establish
 14 which type of signal—*i.e.*, cable or satellite—Defendants allegedly illegally intercepted
 15 and displayed.

16 Without factual allegations regarding Defendants’ reception of the signal, default
 17 judgment cannot be granted. “[N]ecessary facts not contained in the pleadings, and claims
 18 which are legally insufficient, are not established by default.” *Cripps v. Life Ins. Co. of N.*
 19 *Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992). The request for default judgment will be denied.
 20 Plaintiff will be required to file an amended complaint identifying the type of signal
 21 Defendants allegedly intercepted and displayed.¹

22 Accordingly,

23 **IT IS ORDERED** the Motion for Default Judgment (Doc. 16) is **DENIED**.

24 **IT IS FURTHER ORDERED** no later than **May 19, 2023**, Plaintiff shall file an

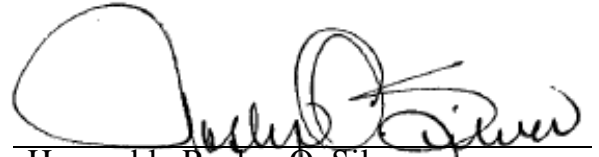
25
 26 ¹ The motion for default judgment appears to argue the boxing match was initially sent to
 27 “cable and satellite companies” by way of a “satellite uplink” such that a subsequent
 28 interception and display of the signal, even if the individual received the transmission via
 a cable system, would be enough to trigger liability. (Doc. 16-1 at 4). Plaintiff cites no
 support for this argument and at least three circuit have explicitly rejected it. *See J&J*
Sports Prods., Inc. v. Mandell Fam. Ventures, L.L.C., 751 F.3d 346, 352 (5th Cir. 2014)
 (citing opinions from Third and Seventh Circuits).

1 amended complaint. The Clerk of Court shall enter a judgment of dismissal without
2 prejudice if no amended complaint is filed by that date.

3 **IT IS FURTHER ORDERED** if Plaintiff files an amended complaint, Plaintiff
4 must file a new motion for default judgment within fourteen days of the date the amended
5 complaint is filed.

6 Dated this 8th day of May, 2023.

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Honorable Roslyn O. Silver
Senior United States District Judge